

Ethics Briefing for Special Government Employees Serving on NASA Advisory Committees

-Michael Pratt, JSC Office of Chief Counsel

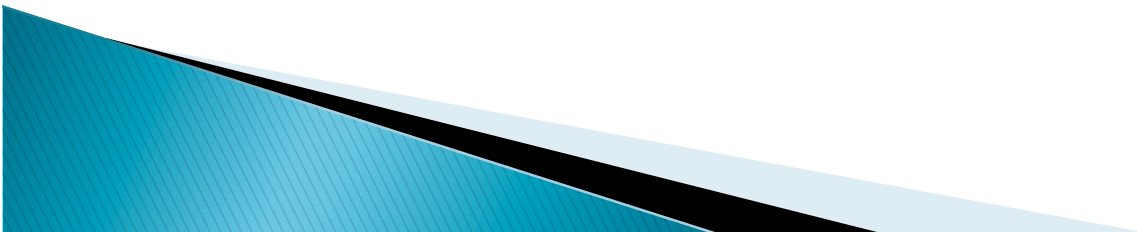
Service on NASA Advisory Committees

- ▶ Appointment as Special Government Employee (SGE)
- ▶ Defined at 18 U.S.C. 202(a)
 - Anyone who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, for a period not to exceed 130 days out of any 365 days
 - Includes advisory committees



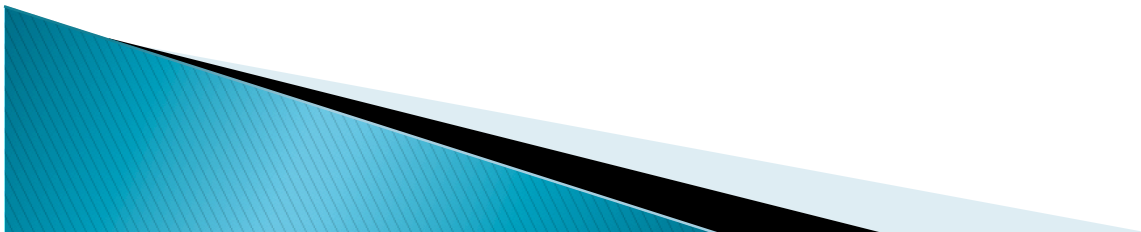
SGE Ethics Rules

- ▶ Ethics Principles:
 - Public service is a public trust
 - May not have conflicting financial interests
 - May not improperly use nonpublic information
 - Avoid even the appearance of impropriety
- ▶ Status as SGE
 - Equivalent to being an insider
 - Subject to civil service ethics rules
 - Subject to post-employment restrictions



Major Criminal Laws

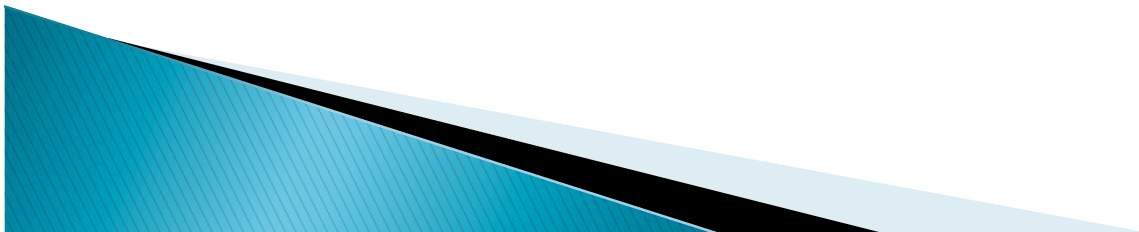
- ▶ Financial Conflicts of Interest
 - 18 U.S.C. 208 & 201
- ▶ Representational Conflicts of Interest (18 U.S.C 203 & 205)
- ▶ Limits on Representation when you leave the government (18 U.S.C. 207)



Financial Conflicts

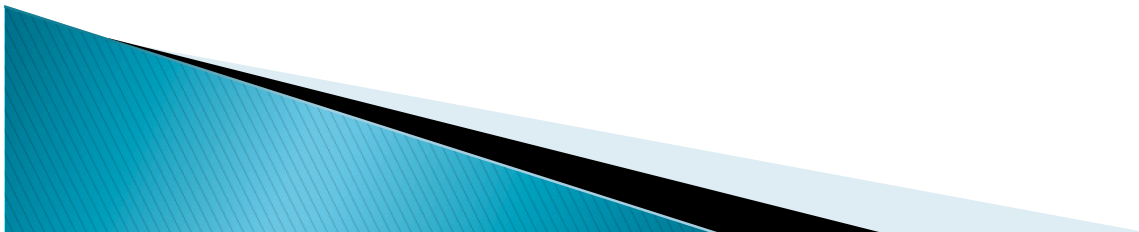
18 U.S.C. 208

- ▶ Prohibits involvement in a particular matter in which the SGE, employer, or spouse or dependent child has a financial interest:
 - An employee is disqualified
 - from participating personally and substantially
 - in any particular matter in which
 - the employee, or anyone whose interests are imputed to the employee, has a financial interest,
 - if the particular matter will have a direct and predictable effect on that interest.



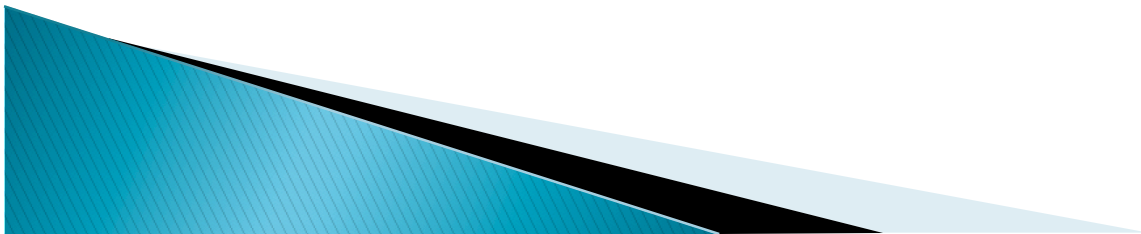
Financial Interests

- ▶ Stocks
- ▶ Bonds
- ▶ Employment
- ▶ Consulting arrangements
- ▶ Grants, contracts
- ▶ Interests through ownership, partnership, LLC (limited liability company)



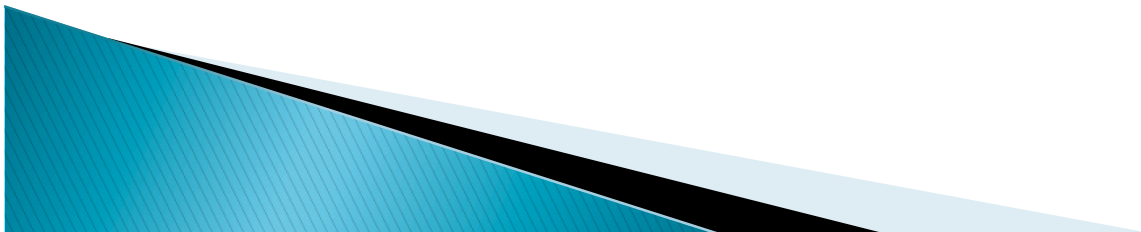
Imputed Interests

- ▶ Spouse
- ▶ Minor Child
- ▶ General Partner
- ▶ Organization which the individual serves as officer, director, trustee, general partner or employee
- ▶ Person or organization with which the employee is negotiating or has an arrangement for prospective employment



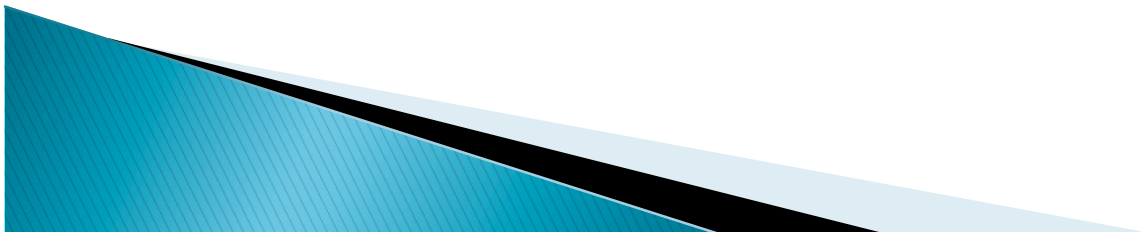
Particular Matter

- ▶ Deliberations, decisions, or actions that are focused upon the interests of:
 - Specific persons or entities (EX: contract, grant, agreement)
 - Identifiable class of persons or entities (EX: industry)
- ▶ NOT focused on:
 - Broad policy options or considerations



Financial Disclosure

- ▶ 2 types:
 - Public (SF-278)
 - Confidential (OGE-450)
- ▶ Purpose: Identify potential conflicts of interest to preserve integrity of committee's work



Conflict of Interest

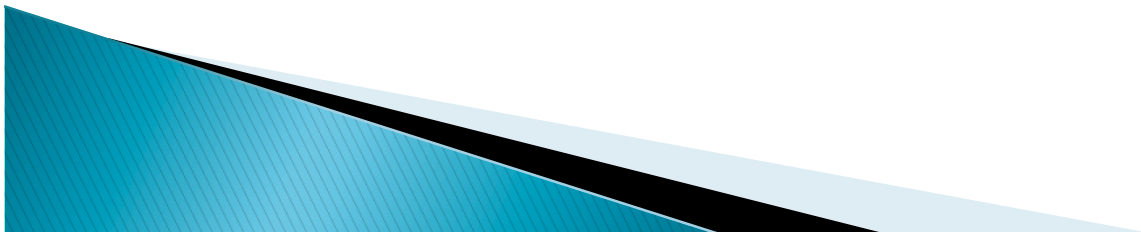
- ▶ What should you do?
 - Recuse (Disqualify) yourself
 - Inform your Executive Secretary
 - Seek legal advice
- Some regulatory exemptions (< \$15K)
- Waiver signed by Administrator
 - in special circumstances



Representational Conflicts

18 U.S.C 203 & 205

- ▶ Prohibits representational activities before the Government
- ▶ Applies to SGEs only if:
 - Matter involves parties (e.g., contracts)
 - SGE was personally and substantially involved in the particular matter as part of Government service, or
 - SGE served more than 60 days in the previous 365, and matter is pending before the same agency



Post-Employment Restrictions

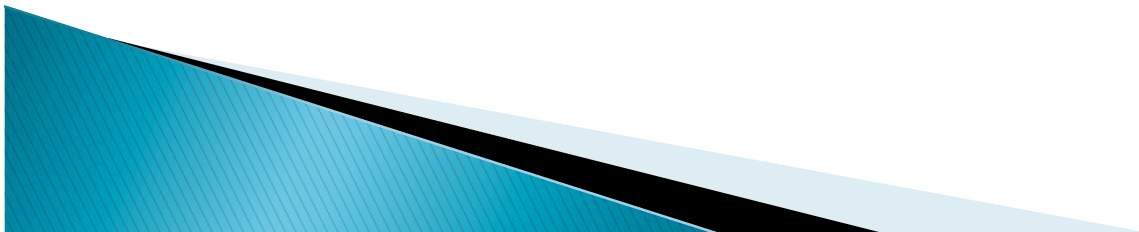
18 U.S.C. 207

- ▶ Permanently prohibits a former employee
- ▶ from making, with intent to influence, any communication to the United States,
- ▶ on behalf of any other person
- ▶ in connection with a particular matter in which the United States is a party or has a substantial interest,
- ▶ if the employee was personally and substantially involved in the matter.



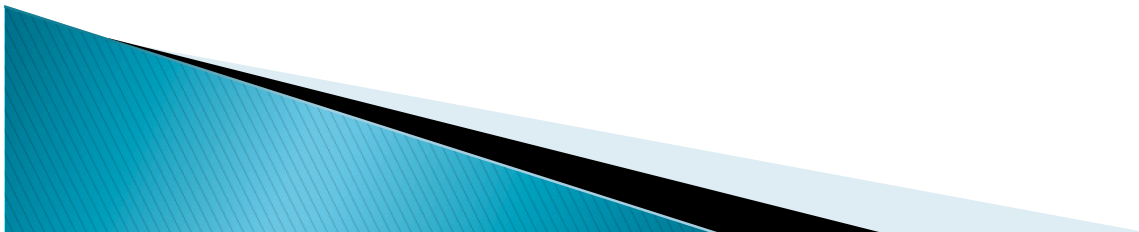
Post Employment Restrictions (one year “cooling off” period)

- ▶ Subject to 1 year representational “cooling off” period if
 - If you are paid for services as an SGE, and
 - Your basic rate of pay was over a certain amount (\$155,440.50 in 2010), and
 - You served 60 days or more as SGE in last year before leaving advisory comm.
- ▶ Restriction on appearances before or communications to NASA (on behalf of another entity)



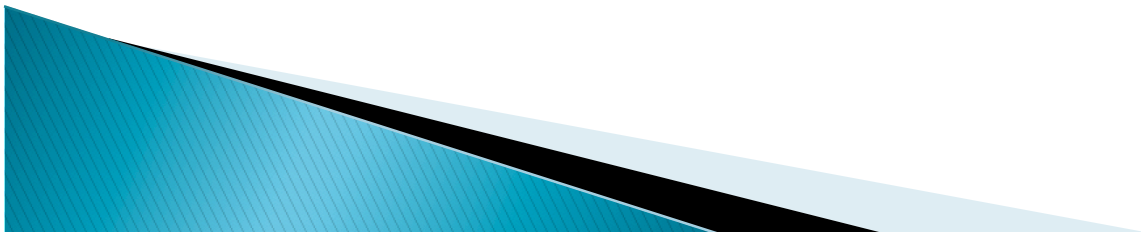
Standards of Conduct

- ▶ Gift Rules
 - Anything having monetary value
 - Prohibited Sources
 - Official Position
- ▶ Exceptions
 - Outside business activities
 - Personal relationships
 - \$20/\$50 rule



Impartiality

- ▶ Must maintain impartiality
- ▶ Cannot represent 2 entities at the same time and maintain impartiality
- ▶ Apply “Washington Post” test
- ▶ When in doubt, recuse yourself.
- ▶ Seek legal advice.



NASA Ethics Officials

- ▶ Michael C. Wholley, General Counsel
 - Designated Agency Ethics Official

- ▶ Adam Greenstone, Ethics Team Lead
 - Alternate Designated Agency Ethics Official

- ▶ Headquarters Ethics Team
 - Rebecca Gilchrist, Mike Monahan, Shari Feinberg, Kathleen Teale, Katie Spear, Andrew Falcon (Associate General Counsel for General Law)
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